

Message

From: Paff, Patricia [paff.patricia@epa.gov]
Sent: 10/7/2019 7:42:38 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: Ethics questions about political activities

Okay, thanks again for your expertise.

From: Fugh, Justina <Fugh.Justina@epa.gov>
Sent: Monday, October 07, 2019 3:42 PM
To: Paff, Patricia <paff.patricia@epa.gov>
Subject: RE: Ethics questions about political activities

Just because something may seem like a bad idea doesn't mean it's unethical under the regulations.

From: Paff, Patricia
Sent: Monday, October 07, 2019 3:40 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Ethics questions about political activities

Thanks for all the info and for providing it so quickly. I'm so glad that I asked because I was unaware of this piece. I'll read up on it more. You may perform ministerial duties, but can't step over the line into fundraising. You can't yourself solicit, accept or receive contributions, can't host a fundraiser, etc. Please see this [OSC advisory opinion](#) that talks about this very situation.

On the last item, it doesn't seem appropriate for a supervisor to give the Human Resource officer "gifts" in the form of free clothing (expensive clothing) when you consider the authority a HR officer holds in hiring, firing, promotions, and bonuses. The HR officer could feel obligated to reciprocate a "gift," to her superior, in the form of hiring, firing, promoting, a "quid pro quo" if you will. Both of these people are ethics officials and I don't think it is a good practice when the ethics training tells us that "appearances" matter.

Thank you for your time, I do appreciate your expertise and I try to be very careful not to cross any lines.

Trish

From: Fugh, Justina <Fugh.Justina@epa.gov>
Sent: Monday, October 07, 2019 3:25 PM
To: Paff, Patricia <paff.patricia@epa.gov>
Subject: RE: Ethics questions about political activities

Hi Patricia,

If you'll allow me, I'm going to concentrate solely on the ethics questions you've asked. My team and I are happy to answer ethics questions from any employee, so here goes:

- Am I allowed to have a political sign in my yard at home when I am on official telework time?

JUSTINA: Yes. What you may not have, however, is a political sign that is obvious to anyone if you use Skype. So, for example, let's say you are on a Skype call, and the other participants can see a sign that says

“vote for XX candidate” or “I hate XX candidate” behind you. That’s impermissible. But a sign in your front yard that we can’t see? That’s fine.

- Is it okay for me to serve as a treasurer on a political campaign outside of duty hours?

JUSTINA: You are a “lesser restricted” employee for the purposes of the Hatch Act so you are permitted to work with a political campaign or candidate outside of work hours, provided that you do not otherwise violate the rules. In other words, yes you may serve as treasurer, but very carefully. You may perform ministerial duties, but can’t step over the line into fundraising. You can’t yourself solicit, accept or receive contributions, can’t host a fundraiser, etc. Please see this [OSC advisory opinion](#) that talks about this very situation.

- Am I allowed to put a sign in my yard that reflects my position on whether or not to impeach the sitting president?

JUSTINA: Yes.

- If this is permissible, is it okay to have the sign in my yard during official telework duties?

JUSTINA: Yes.

- Lastly, different subject. Is it okay for an Associate Office Director to give free clothing to the local HR officer, a subordinate? The HR officer has tremendous influence over hiring, firing, promotions, awards so it feels like a pretty slippery slope especially for OTAQ officials. The “appearance” alone seems to conflict with the Ethics training I just took.

JUSTINA: I fail to see your logic. What is your concern about “appearances?” The gift rules preclude employees from giving up the supervisory chain or to someone who makes more money, which does not seem to the situation you’re describing. Moreover, I don’t see your logic in assuming that the subordinate works autonomously. So, based on what you’ve described, I don’t see any ethical concern at all.

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Paff, Patricia

Sent: Monday, October 07, 2019 10:43 AM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Subject: Ethics questions about political activities

Good morning,

Ex. 6 Personal Privacy (PP)

Ex. 6 Personal Privacy (PP)

So here are my questions:

- Am I allowed to have a political sign in my yard at home when I am on official telework time?
- Is it okay for me to serve as a treasurer on a political campaign outside of duty hours?
- Am I allowed to put a sign in my yard that reflects my position on whether or not to impeach the sitting president?
 - If this is permissible, is it okay to have the sign in my yard during official telework duties?
- Lastly, different subject. Is it okay for an Associate Office Director to give free clothing to the local HR officer, a subordinate? The HR officer has tremendous influence over hiring, firing, promotions, awards so it feels like a pretty slippery slope especially for OTAQ officials. The “appearance” alone seems to conflict with the Ethics training I just took.

Thank you, my apologies in advance for putting you in an awkward situation.

Thanks

Tricia Paff
Assessment and Standards Div
734/214-4016

Message

From: Mosley, Ferne [mosley.ferne@epa.gov]
Sent: 9/25/2019 6:21:31 PM
To: Birchfield, Norman [Birchfield.Norman@epa.gov]
CC: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: Request for reprints with supplemental information

Hello, Norman – I agree with this approach. We will alert the USDA ethics official for his information and they can work it out from their side. We can only advise you of your restrictions to protect Agency information from improper disclosure.

Thanks, Ferne

Ferne L. Mosley, Attorney-Advisor

Ethics Office – Office of General Counsel
U.S. Environmental Protection Agency
William Jefferson Clinton Building – North, Room 4413A
Washington, DC 20460 (for ground deliveries: 20004)
Mail Code 2311A
Desk phone: (202) 564-8046
Cell phone: (202) 306-2998

From: Birchfield, Norman <Birchfield.Norman@epa.gov>
Sent: Wednesday, September 25, 2019 8:07 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Mosley, Ferne <mosley.ferne@epa.gov>
Subject: FW: Request for reprints with supplemental information

Hi Ferne and Justina

I have let USDA know that Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Please let me know

if you have any concerns. Thanks for your help!

Norm

From: Birchfield, Norman
Sent: Wednesday, September 25, 2019 8:00 AM
To: Torbert, Allen <Ex. 5 Personal Privacy (PP)@usda.gov>
Subject: RE: Request for reprints with supplemental information

Hi Allen

Thanks for sharing more information on Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Thanks again for working through this with me.

Norm

From: Torbert, Allen {Ex. 6 Personal Privacy (PP)}@usda.gov>

Sent: Tuesday, September 24, 2019 6:07 PM

To: Birchfield, Norman <Birchfield.Norman@epa.gov>

Subject: RE: Request for reprints with supplemental information

Dear Norm:

I am OK with the first option,

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Thanks,

Allen Torbert

From: Birchfield, Norman <Birchfield.Norman@epa.gov>
Sent: Tuesday, September 24, 2019 10:58 AM
To: Torbert, Allen <[Ex. 5 Personal Privacy (PP)]@usda.gov>
Subject: RE: Request for reprints with supplemental information

Hi Allen

Sorry for the slow reply.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP) I'd be fine with either option or considering another approach if you have any other ideas. Thanks for working through this with me.

Norm

From: Torbert, Allen <[Ex. 5 Personal Privacy (PP)]@usda.gov>
Sent: Thursday, September 19, 2019 5:43 PM
To: Birchfield, Norman <Birchfield.Norman@epa.gov>
Subject: RE: Request for reprints with supplemental information

Dear Norman:

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Thanks,

Allen Torbert

From: Birchfield, Norman <Birchfield.Norman@epa.gov>
Sent: Thursday, September 19, 2019 11:59 AM
To: Torbert, Allen <Ex. 6 Personal Privacy (PP) @usda.gov>
Subject: FW: Request for reprints with supplemental information

Hi Allen

I'm Jason Mills' supervisor in EPA.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Don't hesitate to give me a call if I can help clarify.

Thanks

Norm

Norman Birchfield, Ph.D.
Economic & Risk Analysis Staff, Chief
Office of Resource Conservation and Recovery
U.S. EPA
1200 Pennsylvania Ave., NW, MC 5305P
Washington, DC 20460
Phone: (703) 347-0174

From: Rufus Chaney <Ex. 6 Personal Privacy (PP)>
Sent: Thursday, September 19, 2019 12:24 AM
To: Al-Abed, Souhail <al-abad.souhail@epa.gov>
Cc: Mills, Jason <Mills.Jason@epa.gov>; Ex. 6 Personal Privacy (PP) @usda.gov
Subject: Request for reprints with supplemental information

Dear Dr. Al-Abed:

I am part of the USDA review of the EPA document on FGDG use now nearing completion.

I have several questions about your papers on the LEAF approach to contaminant release. I looked at several of the original papers for information on both SO₄ and SeO₄ release because the risk of SeO₄ is strongly affected by concentrations of SO₄ in the same matrix. Added sulfate fertilizers for wheat can significantly reduce SeO₄ accumulation in wheat plants and grain, lowering grain quality for human nutrition. And those sulfate additions were only fertilizer applications, far lower than FGDG additions to reduce phosphate in runoff.

So, please send us (Torbert and Chaney) copies of your papers including Supplemental Information (which cannot be simply downloaded from the journal website; I am retired from USDA and do not have the Agency access to download SI from the journal website). Even the notice of the existence of the Little et al. (2017) paper at EPA does not allow download of the paper and no mention of the Supplemental Information.

So, please send us complete papers with supplemental information and any subsequent corrections which are relevant to risk assessment for land application of FGDG or mined gypsum. We are especially interested in elements which are a concern in the EPA risk assessment process including Se, Hg, Tl, and B. For "new" FGDG formed only after removal of fly ash, the only class of FGDG for which land application is being considered.

Don't know if you saw our papers on trace elements in runoff, etc., from several USDA-ARS studies of using FGDG to reduce P and other nutrient runoff from pastures which received surface applications of poultry litter. And another paper which examined potential for FGDG to persist on the leaves of forages such that ruminant livestock could be exposed to excessive sulfate and suffer disease.

Best regards,

Rufus Chaney

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Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 10/9/2019 8:06:43 PM
To: Gentry, Nathan [Gentry.Nathan@epa.gov]
CC: Ross, Margaret [Ross.Margaret@epa.gov]
Subject: RE: Fundraising for holiday party

Hi Nathan,

Someone else in ORD recently asked me a similar question about a silent auction to raise money for office holiday parties. Here's my answer:

The activities you describe aren't actually "fundraising" as proscribed by the ethics rules or the Combined Federal Campaign. They're still impermissible, but not because they are fundraising.

Why don't I think this is "fundraising?"

Granted, you're trying to raise money, but it's for the benefit and welfare of your employees, not for someone or something else. For the purposes of the ethics rules, we define "fundraising" as "the raising of funds *for a nonprofit organization*, other than a political organization" (emphasis added)." 5 CFR § 2635.808(a). And when we apply OPM rules about the Combined Federal Campaign, we see that the "CFC is the only authorized solicitation of employees in the Federal workplace *on behalf of charitable organizations* (emphasis added)." 5 CFR § 950.102. You're just selling stuff, not raising money for a charity or a nonprofit.

Previously, your office held a silent auction to bid on books and other donated items, with proceeds going to fund office parties

The federal property regulation at 41 CFR § 102-74.410 prohibits "[a]ll persons entering in on or Federal property ... from soliciting alms (including money and non-monetary items) or commercial or political donations, *vending merchandise of all kinds*, displaying or distributing commercial advertising, or collecting private debts (emphasis added)." While there are some exceptions, none of them apply here. Thus, I agree with the outcome of discontinuing this activity.

Now, you ask if the items are "free" with the option of making a donation, again with any proceeds going to fund office parties

Since the participants know that the ultimate goal is to raise money, it's disingenuous to suggest that the items are free. All that's happening here is that there is no suggested price for the items, but the intent is still that employees contribute something for the item, and then the office will pool the proceeds. I don't see that this activity differs significantly from what you did before, and it's still impermissible vending on federal property.

Can you instead ask for donations?

Pay attention to the ethics rules at 5 CFR Part 2635, Subpart C "Gifts Between Employees." The rule is that you can't give a gift of more than \$10 to your supervisor or anyone who makes more money than you, and you can't accept a gift of more than \$10 from your subordinate or anyone who makes less money than you. Under no circumstances can anyone be coerced into giving, so a plan to make all employees pay \$20 to cover office events for the year is unethical. Under the ethics rules, any contribution must be voluntary, which means "given freely, without pressure or coercion. A

contribution is not voluntary unless it is made in an amount determined by the contributing employee.” 5 CFR § 2635.304(f).

You got to the right answer way faster than I did!
Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Gentry, Nathan
Sent: Wednesday, October 09, 2019 2:48 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Ross, Margaret <Ross.Margaret@epa.gov>
Subject: Fundraising for holiday party

Hello,

I’ve just been asked about whether it’s ok to have fundraising type activities in order to raise money for the office holiday party. These would be the same sorts of things we used to do for CFC (hot dog sales, chili cook-offs, etc.). I’m assuming the answer is no, because of 1) the prohibition on any fundraising other than CFC and 2) GSA property rules prohibiting vending on federal property. I just wanted to check to see if I’m wrong.

Nathan Gentry
Scheduler for Jennifer Orme-Zavaleta, David Dunlap, Chris Robbins and Bruce Rodan
Assistant Deputy Ethics Official
EPA Office of Research and Development
Phone: 202-564-9084
Fax: 202-565-2430

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 10/4/2019 9:44:56 PM
To: Gentry, James [Gentry.James@epa.gov]
Subject: RE: Are donations fundraising?

Hi,

The activities you describe aren't actually "fundraising" as proscribed by the ethics rules or the Combined Federal Campaign. They're still impermissible, but not because they are fundraising.

Why don't I think this is "fundraising?"

Granted, you're trying to raise money, but it's for the benefit and welfare of your employees, not for someone or something else. For the purposes of the ethics rules, we define "fundraising" as "the raising of funds *for a nonprofit organization*, other than a political organization" (emphasis added)." 5 CFR § 2635.808(a). And when we apply OPM rules about the Combined Federal Campaign, we see that the "CFC is the only authorized solicitation of employees in the Federal workplace *on behalf of charitable organizations* (emphasis added)." 5 CFR § 950.102. You're just selling stuff, not raising money for a charity or a nonprofit.

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Since the participants know that the ultimate goal is to raise money, it's disingenuous to suggest that the items are free. All that's happening here is that there is no suggested price for the items, but the intent is still that employees contribute something for the item, and then the office will pool the proceeds. I don't see that this activity differs significantly from what you did before, and it's still impermissible vending on federal property.

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Pay attention to the ethics rules at 5 CFR Part 2635, Subpart C "Gifts Between Employees." The rule is that you can't give a gift of more than \$10 to your supervisor or anyone who makes more money than you, and you can't accept a gift of more than \$10 from your subordinate or anyone who makes less money than you. Under no circumstances can anyone be coerced into giving, so a plan to make all employees pay \$20 to cover office events for the year is unethical. Under the ethics rules, any contribution must be voluntary, which means "given freely, without pressure or coercion. A contribution is not voluntary unless it is made in an amount determined by the contributing employee." 5 CFR § 2635.304(f).

So, think over this material and then we can talk further.

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Gentry, James
Sent: Thursday, October 03, 2019 10:31 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Are donations fundraising?

Justina,

My office previously would hold a silent auction where staff would bid on books or other items. The funds from this were used to help fund office parties. We stopped doing this after we learned that the activity would be considered fund raising.

A new question has come up on whether the auction could be reconfigured so that the items were free but folks could leave an optional donation of whatever amount they chose. Would this also be considered fund raising?

If so, could we accept donations in absence of an auction to avoid violating fund raising prohibitions.

James E. Gentry
Chief of Staff,
Office of Science Advisor, Policy & Engagement
Office of Research & Development, U.S. EPA
202-564-4309

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 8/20/2019 11:01:11 PM
To: Wright, Garth [wright.garth@epa.gov]
Subject: RE: AK ethics issue

Garth,

As ethics officials, we have an obligation to make unethical behavior stop going forward. **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

Here's what I suggest:

1)

2)

3)

Ex. 5 Deliberative Process (DP)

It's up to the Region whether **Ex. 5 Deliberative Process (DP)** What I'm saying is that, from a purely ethics perspective, there is a requirement for resolving that problem now.
Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Wright, Garth
Sent: Tuesday, August 20, 2019 6:48 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: AK ethics issue

I didn't - thank you very much for sending this along. I guess I am still unsure how to tie this up.

Ex. 5 Deliberative Process (DP)

This ties into the general "what happens if I don't follow the ethics rules" questions I sometimes get!

From: Fugh, Justina <Fugh.Justina@epa.gov>
Sent: Tuesday, August 20, 2019 3:30 PM
To: Wright, Garth <wright.garth@epa.gov>
Subject: RE: AK ethics issue

Hi Garth,
I had to go through my “draft” emails and found this one to you that may not have been finished. You didn’t get this already, did you?
Justina

	ASSUMPTION	JUSTINA ASKS	Justina says now ...
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Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

From: Wright, Garth
Sent: Thursday, July 25, 2019 12:53 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: AK ethics issue

I have added my thoughts below in red.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Thank you for your help!

From: Fugh, Justina
Sent: Wednesday, July 17, 2019 3:12 PM
To: Wright, Garth <wright.garth@epa.gov>
Subject: RE: AK ethics issue

Hi Garth,

Well, let's see if I can figure this out.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

I get that people think that there may ethics issues, but do we have all of the facts yet?

ASSUMPTION

JUSTINA ASKS

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

I'm still confused about the facts, so I can't tell yet if there is an ethics violation here or not.
Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Wright, Garth
Sent: Wednesday, July 17, 2019 12:34 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: AK ethics issue

I am following up on the below.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Always appreciate your help!

From: Wright, Garth
Sent: Thursday, June 27, 2019 10:00 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: AK ethics issue

Hi Justina,

Ex. 5 Deliberative Process (DP)

What are the steps the region should take in response to this issue? There is more background in the email chain below.

Thanks!

From: Murphy, Stacy
Sent: Wednesday, June 12, 2019 9:23 AM
To: Brown, DonaldM <Brown.DonaldM@epa.gov>; Wright, Garth <wright.garth@epa.gov>
Cc: Elleman, Robert <Elleman.Robert@epa.gov>
Subject: RE: AK ethics issue

Ex. 5 Deliberative Process (DP)

So, what happens now?

From: Brown, DonaldM
Sent: Wednesday, June 12, 2019 8:41 AM
To: Wright, Garth <wright.garth@epa.gov>; Murphy, Stacy <Murphy.Stacy@epa.gov>
Cc: Elleman, Robert <Elleman.Robert@epa.gov>
Subject: RE: AK ethics issue

As you may be aware, LSASD has responsibilities both for the clearance and peer review of scientific and technical work products. Those responsibilities include not only the tracking of those products but also ensuring the documents and

associated data are made public as well as providing annual reports to Headquarters and the Office of Management and Budget.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Happy to

provide any additional information and I have also cc'd Rob Elleman, Region 10 Peer Review Coordinator.

Thanks,
Donald M. Brown, Regional Quality Assurance Manager
Laboratory Services and Applied Science Division
USEPA Region 10
1200 6th Avenue, Suite 155, 14-D12
Seattle, WA 98101
Voice: (206) 553-0717
Brown.DonaldM@epa.gov (Please note the "M")

From: Wright, Garth
Sent: Monday, June 10, 2019 12:48 PM
To: Murphy, Stacy <Murphy.Stacy@epa.gov>
Cc: Brown, DonaldM <Brown.DonaldM@epa.gov>
Subject: AK ethics issue

Hi Stacy,

Donald mentioned an ethics-related issue he discovered during his peer review process - it involves

Ex. 5 Deliberative Process (DP)

Happy to discuss when you have time.

Garth Wright
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 10

1200 6th Avenue, Suite 155, M/S 11-C07
Seattle, WA 98101
Tel: 206-553-1104
Fax: 206-553-1762

Message

From: Glazier, Kelly [Glazier.Kelly@epa.gov]
Sent: 6/21/2019 3:42:44 PM
To: Fugh, Justina [Fugh.Justina@epa.gov]
Subject: RE: Ethics question on OPM asking me to fraudulently sign a form Fw: Walker,S_EPA backroungrejection

Thank you!

From: Fugh, Justina
Sent: Friday, June 21, 2019 11:42 AM
To: Glazier, Kelly <Glazier.Kelly@epa.gov>
Cc: Alvaranga, David <Alvaranga.David@epa.gov>
Subject: RE: Ethics question on OPM asking me to fraudulently sign a form Fw: Walker,S_EPA backroungrejection

Hi Kelly,

I talked to the guy on Wednesday and told him that I didn't share his misgivings about the form. Sure, I see that it's weird that we can't quite figure out which line he should sign, but choosing the wrong one would not be, in my opinion, a "false statement" tantamount to a violation of 18 USC 1001. I said that if he were to lie about having been convicted, for example, then that would be a "false statement." But guessing wrong on which line to sign? Nope, not a problem. He's going to sign, so no worries now.

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Glazier, Kelly
Sent: Friday, June 21, 2019 11:37 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Ethics question on OPM asking me to fraudulently sign a form Fw: Walker,S_EPA backroungrejection

Hi Justina.

I understand this has made its way to you.

The requirement to complete the OF 306 is OPMs. And it's their form. There's nothing I can do. This form is not only used by EPA, but the entirety of the federal government.

If he decides not to do, ultimately, we'll bring it to management.

Thanks.

Kelly

From: Johnson, Tina
Sent: Friday, June 21, 2019 11:11 AM

To: Glazier, Kelly <Glazier.Kelly@epa.gov>

Subject: FW: Ethics question on OPM asking me to fraudulently sign a form Fw: Walker,S_EPA backroungrejection

FYSA

From: Datcher, Dawn

Sent: Friday, June 21, 2019 11:09 AM

To: Johnson, Tina <Johnson.Tina@epa.gov>; Rivera, Carlos R. <Rivera.CarlosR@epa.gov>

Cc: Ross, Jon <Ross.Jon@epa.gov>; Young, Debbie <young.debbie@epa.gov>; Bonner, Jerome <Bonner.Jerome@epa.gov>

Subject: RE: Ethics question on OPM asking me to fraudulently sign a form Fw: Walker,S_EPA backroungrejection

Thank you so much Tina. He was informed Ex. 5 Deliberative Process (DP)

Have a great weekend.

Dawn Datcher

Office of Land and Emergency Management

U.S. Environmental Protection Agency

Phone: (202) 564-9911

From: Johnson, Tina

Sent: Friday, June 21, 2019 11:08 AM

To: Datcher, Dawn <Datcher.Dawn@epa.gov>; Rivera, Carlos R. <Rivera.CarlosR@epa.gov>

Cc: Ross, Jon <Ross.Jon@epa.gov>; Young, Debbie <young.debbie@epa.gov>; Bonner, Jerome <Bonner.Jerome@epa.gov>

Subject: RE: Ethics question on OPM asking me to fraudulently sign a form Fw: Walker,S_EPA backroungrejection

Hi Dawn,

Unfortunately, OPM will not allow us to initiate the required background investigation without a signed OF-306. We fully understand that the individual signing is neither an applicant or appointee. We can't update or change the selections on the form - OPM will need to update their form, so we have to use it as is until then.

He can contact Carlos next week to discuss his concerns it may help.

Best regards,

Tina Johnson (TJ)

Team Leader

Personnel Security Branch and NSI Program Team (<http://intranet.epa.gov/oa/smd/psb/nonfederal-personnel-on-boarding.htm>)

Security Management Division

US Environmental Protection Agency

(202) 564-1948 W

(202) 510 -3382 C

From: Datcher, Dawn

Sent: Friday, June 21, 2019 10:08 AM

To: Johnson, Tina <Johnson.Tina@epa.gov>; Rivera, Carlos R. <Rivera.CarlosR@epa.gov>

Cc: Ross, Jon <Ross.Jon@epa.gov>; Young, Debbie <young.debbie@epa.gov>; Bonner, Jerome

<Bonner.Jerome@epa.gov>

Subject: FW: Ethics question on OPM asking me to fraudulently sign a form Fw: Walker,S_EPA backroungrejection

Hi Tina/Carlos,

Any assistance below would be great. Not sure if I need PSB or SSC's help. This is concerning the request of a new 306 form for OLEM employee re-designated during last year's CFR 1400 process. He feels the 306 reads for new employee and him signing is unethical. He reached out to Justina in OGC before looping in his direct supervisor or me/Susan.

Dawn Datcher
Lead Management Analyst
Organizational Management & Integrity Staff (OMIS)
Office of Land and Emergency Management
U.S. Environmental Protection Agency
Room 4135 WJC-West

Phone: (202) 564-9911

E-mail: datcher.dawn@epa.gov

OLEM HR SharePoint Site [Click Here](#)

From: "Alvaranga, David" <Alvaranga.David@epa.gov>

Date: June 18, 2019 at 4:38:04 PM EDT

To: "Woolford, James" <Woolford.James@epa.gov>

Subject: Ethics question on OPM asking me to fraudulently sign a form

Fw: Walker,S_EPA backroungrejection

Hi Jim

FYI- I just saw that Stuart Walker sent this to Justina. This is the first I am hearing or seeing this.

David

From: Walker, Stuart

Sent: Tuesday, June 18, 2019 3:56 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Cc: Alvaranga, David <Alvaranga.David@epa.gov>

Subject: Ethics question on OPM asking me to fraudulently sign a form

Fw: Walker,S_EPA backroungrejection

An OPM staffer is asking me to sign the attached form despite my misgivings that signing it appears fraudulent (because I would purport to being either an applicant new to federal service or an appointee to another federal position. This appears to potentially

threatening my position unless I commit a potentially illegal action. I can call you after getting off a conference call on an Administrator issue

From: Walker, Stuart
Sent: Tuesday, June 18, 2019 3:30 PM
To: PersonnelSecurityE
Cc: Johnson, Tina; Personnel Security
Subject: Re: Walker,S_EPA backroungrejection

Erin,

I already submitted the forms. Why are you asking to resubmit the same forms? Did OPM lose the previous submittal? Also, you have not answered the question regarding the Declaration of Federal Employment form. Are you insisting that I fraudulently sign the form, or is there some documentation that you have not provided that would demonstrate that signing the form incorrectly is the appropriate action, and would that documentation indicate whether the "Applicant" or "Appointee" signature line would be used.

From: PersonnelSecurityE <PersonnelSecurityE@opm.gov>
Sent: Tuesday, June 18, 2019 3:16 PM
To: Walker, Stuart
Cc: Johnson, Tina; Personnel Security
Subject: RE: Walker,S_EPA backroungrejection

You will need to follow the directions and resubmit your eqip and the forms that are required for the eqip to be processed

Thank you

Erin Parker


Security Assistant; Personnel Security

Facilities, Security & Emergency Management

US Office of Personnel Management

1137 Branchton Road

Boyers, PA 16018

 phone

From: Walker, Stuart [<mailto:Walker.Stuart@epa.gov>]

Sent: Tuesday, June 18, 2019 3:09 PM

To: PersonnelSecurityE

Cc: Johnson, Tina; Personnel Security

Subject: Re: Walker,S_EPA backroun grejection

Hi Erin,

Attached is the signature page scanned in for the supplemental information. I thought I had electronically signed it, but I guess that did not work. So I printed out the page and scanned it in. If you want me to scan in all the pages again I can do that tomorrow when I am back in the office.

In the Declaration for Federal Employment, in the "Instructions" and "17" (where the applicant or appointee signs) sections, it clearly states that making false or fraudulent statements is grounds for not hiring, firing, fine, and imprisoning whomever signs the form. Since from my reading of the instructions I am not an applicant or appointee because I am existing federal employee who is not in the process of changing jobs, do you have something official (e.g., OPM guidance, signed memo on OPM letterhead, etc.) that says existing staff are to sign even if signing as an applicant or appointee is fraudulent? If the form had a signature block for existing employees who were not changing jobs, I would have signed it yesterday.

From: PersonnelSecurityE <PersonnelSecurityE@opm.gov>
Sent: Tuesday, June 18, 2019 12:50 PM
To: Walker, Stuart
Cc: Johnson, Tina; Personnel Security
Subject: Walker,S_EPA backroungrejection

Hello:

Thank you for accessing the e-QIP system to complete the investigative questionnaire.

The Office of Personnel Management (OPM) has reviewed the documents that you submitted and discovered that some required information and/or forms are missing. Unfortunately, OPM cannot initiate the background investigation until you go back into the e-QIP system and submit the following form(s)/information:

- **Need T2S Supplemental Questions Form submitted with signature and date**
- **Need OF306 Declaration for Federal Employment submitted with signature and date**

The response back was The Declaration of Federal employment form only has signature places for new applicants who have not worked for the federal government and existing/former federal staff getting a new federal position. Neither apply to me so I did not sign it.

- **However the forms are required for the EQIP**

To access your saved e-QIP form and complete your submission, please:

1. Go to the e-QIP Gateway at <https://nbib.opm.gov/e-qip-background-investigations/>

National Background Investigations Bureau

nbib.opm.gov

e-QIP Background Investigations. Welcome to the Electronic Questionnaires for Investigations Processing system. e-QIP is a web-based automated system that was designed to facilitate the processing of standard investigative forms used when conducting background investigations for Federal security, suitability, and credentialing purposes. e-QIP allows the user to electronically ...

2. Click the Enter e-QIP Applicant Site button.
3. Click Continue at the browser check page.
4. At the Applicant Registration screen, type your Username and Password. Click the Login button.
5. Type your Social Security Number where indicated. Click Submit. (Note: If you do not have a Social Security Number, use the new "Request Number" Ex. 6 Personal Privacy (PP) If you do not remember that number, please call 724-794-7103.)
6. If prompted, answer the Golden Questions. Click Submit.
7. If needed, click Enter Your Data to provide any missing information, and save.

Please follow the step-by-step instructions provided in the OPM Quick Reference Guide for e-QIP Applicants to digitally sign and submit the following pages:

- Authorization for Release of Information
- Certification That My Answers Are True
- Fair Credit Release (required only if you answer "Yes" to delinquent federal debt on any forms)

Your final step in e-QIP is to click "Release Request/Transmit to Agency."

If you have questions, please contact the OPM Help Desk at 724-794-7103. Also refer to Filling out Your Security Forms and Digitally Sign Your SF-86 at epa.gov. Both guides contain detailed instructions to help you accurately complete, digitally sign, scan, and successfully submit your e-QIP form.

Thank you for your prompt attention.

Erin Parker
Security Assistant; Personnel Security
Facilities, Security & Emergency Management
US Office of Personnel Management
1137 Branchton Road
Bowers, PA 16018

Ex. 6 Personal Privacy (PP) phone

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 6/21/2019 3:48:37 PM
To: Glazier, Kelly [Glazier.Kelly@epa.gov]
Subject: RE: Ethics question on OPM asking me to fraudulently sign a form Fw: Walker,S_EPA backroungrejection

Out of curiosity, which line? Applicant or the other one?

From: Glazier, Kelly
Sent: Friday, June 21, 2019 11:45 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Ethics question on OPM asking me to fraudulently sign a form Fw: Walker,S_EPA backroungrejection

And FYI, the detailed instructions that we send out include information on where to sign,,,

From: Fugh, Justina
Sent: Friday, June 21, 2019 11:42 AM
To: Glazier, Kelly <Glazier.Kelly@epa.gov>
Cc: Alvaranga, David <Alvaranga.David@epa.gov>
Subject: RE: Ethics question on OPM asking me to fraudulently sign a form Fw: Walker,S_EPA backroungrejection

Hi Kelly,

I talked to the guy on Wednesday and told him that I didn't share his misgivings about the form. Sure, I see that it's weird that we can't quite figure out which line he should sign, but choosing the wrong one would not be, in my opinion, a "false statement" tantamount to a violation of 18 USC 1001. I said that if he were to lie about having been convicted, for example, then that would be a "false statement." But guessing wrong on which line to sign? Nope, not a problem. He's going to sign, so no worries now.

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Glazier, Kelly
Sent: Friday, June 21, 2019 11:37 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Ethics question on OPM asking me to fraudulently sign a form Fw: Walker,S_EPA backroungrejection

Hi Justina.

I understand this has made its way to you.

The requirement to complete the OF 306 is OPMs. And it's their form. There's nothing I can do. This form is not only used by EPA, but the entirety of the federal government.

If he decides not to do, ultimately, we'll bring it to management.
Thanks.

Kelly

From: Johnson, Tina
Sent: Friday, June 21, 2019 11:11 AM
To: Glazier, Kelly <Glazier.Kelly@epa.gov>
Subject: FW: Ethics question on OPM asking me to fraudulently sign a form Fw: Walker,S_EPA backroungrejection

FYSA

From: Datcher, Dawn
Sent: Friday, June 21, 2019 11:09 AM
To: Johnson, Tina <Johnson.Tina@epa.gov>; Rivera, Carlos R. <Rivera.CarlosR@epa.gov>
Cc: Ross, Jon <Ross.Jon@epa.gov>; Young, Debbie <young.debbie@epa.gov>; Bonner, Jerome <Bonner.Jerome@epa.gov>
Subject: RE: Ethics question on OPM asking me to fraudulently sign a form Fw: Walker,S_EPA backroungrejection

Thank you so much Tina. He was informed Ex. 5 Deliberative Process (DP)

Have a great weekend.

Dawn Datcher
Office of Land and Emergency Management
U.S. Environmental Protection Agency
Phone: (202) 564-9911

From: Johnson, Tina
Sent: Friday, June 21, 2019 11:08 AM
To: Datcher, Dawn <Datcher.Dawn@epa.gov>; Rivera, Carlos R. <Rivera.CarlosR@epa.gov>
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Subject: RE: Ethics question on OPM asking me to fraudulently sign a form Fw: Walker,S_EPA backroungrejection

Hi Dawn,

Unfortunately, OPM will not allow us to initiate the required background investigation without a signed OF-306. We fully understand that the individual signing is neither an applicant or appointee. We can't update or change the selections on the form - OPM will need to update their form, so we have to use it as is until then.

He can contact Carlos next week to discuss his concerns it may help.

Best regards,
Tina Johnson (TJ)
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phone